

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Minutes

February 11, 2004, 1:00 PM – 2:20 PM

State Courts Building, Conference Room 230

CIDVC Website: <http://www.supreme.state.az.us/cidvc/>

CIDVC Members Present

Hon. William O'Neil, Chair
Hon. George T. Anagnost (Telephonic)
Jerry Bernstein, Esq.
Allie Bones
Evelyn Buckner
Mark Carpenter
Larry Farnsworth
Hon. Elizabeth R. Finn
Martha Fraser Harmon
Hon. Danna Hendrix
Bob James
Hon. Ronald I. Karp
Patricia Klahr
Julianna Koob
Mary Ann Lanzilotta, Ph.D
Sheri Lauritano, Esq.
Hon. Michelle Lue Sang
Hon. Mary Helen Maley
Richard McLane
Hon. Mark Moran
John Pombier, Esq.
Tracey Wilkinson

Members using a Proxy

Hon. Denise I. Lundin (Judge William
O'Neil, Proxy)
Anu Partap, M.D. (Bertha Martinez, Proxy)

Members Not Present

Hallie Bonger-White, Esq.
Hon. Sherry Geisler
Donna Irwin

Staff Present

Konnie K. Young
Karen Kretschman
Elizabeth Portillo

Guests

Todd Adkins, Legislative Specialist
Xochitl Orozco, Legislative Intern
Commissioner Carolyn Passamonte
Doug Pilcher, Phoenix Municipal Court
Robert Roll, IT Division, AOC

Quorum: Yes

1. Call Meeting to Order:

Judge O'Neil called the meeting to order at 1:00 PM. All those present introduced themselves. Guests attending the meeting were welcomed. Many members had just attended the STOP Violence Against Women events at the capitol prior to attending the CIDVC meeting, and Judge O'Neil commented that the presentation at the capitol was a huge success.

2. New Materials:

The following new materials were distributed to the members:

- a) *Revised Membership List*
- b) *Workgroup Membership Lists*
- c) *Meeting Schedule for 2004*
- d) *Draft Minutes (November 20, 2003)*
- e) *DV Benchbook & DV Criminal Benchbook*
- f) *Legislative Handout (Presented by Todd Adkins & Xochitl Orozco)*

The members were each given binders for the CIDVC meetings and instructed to discard any previous membership lists. Judge O'Neil stressed that it was important to keep email addresses confidential and that the addresses were for internal use; he instructed members not to share the addresses with anyone without that individual's permission.

3. CPOR/LPOR Project Update:

Robert Roll gave an update on the status of CPOR/LPOR which went into full production on January 22, 2004. This process will allow all the holders of records to query CPOR/LPOR and improve the process of using LPOR for NCIC acceptance of protective orders. Since the roll-out date, there have been approximately one million queries that have come through LPOR.

The Department of Public Safety (DPS) would like to move this into full functionality as soon as possible so that the holders of records will be able to accept protective orders and make them available for statewide query.

Konnie Young asked Robert to briefly explain CPOR (Court Protective Order Repository) and LPOR (Law Enforcement Protective Order Repository), since there were many new members present. Robert explained that CPOR has been around for about two years and that it is retrieving the actual protective order data from the courts to JUSTIS, which is the data warehouse. LPOR was just implemented on January 22, 2004. Data is extracted from CPOR and sent to a separate server, to which law enforcement has access; holders of record can query upon orders and accept them.

4. Workgroup Membership Lists:

Konnie circulated the membership lists for the various workgroups and asked the members to review them to ensure that the information was correct and to indicate if they wanted to be off of a workgroup list or wanted to join any of the workgroups.

Judge Moran, the Chair of the Education Workgroup, stated that the workgroup was regrouped last year for the specific purpose of presenting at the judicial conference. He said that these workgroup members had gotten more involved in the creation and revision of the DV Benchbooks. At this time, there are no new projects to report.

5. Approval of Minutes:

Judge O'Neil discussed the minutes and asked if there were any additions or corrections. Judge Moran stated that there was a typo on page four of the minutes under section six on the second paragraph from the bottom where Judge Finn presented the Brady Issue. Instead of "incredible" threat it should read "credible" threat. It was noted and will be changed. With no further comments, the minutes were approved as submitted.

6. Workgroup Reports:

DV Benchbook Workgroup (Evelyn Buckner, Chair):

Evelyn stated that many dedicated hours from the workgroup and staff went into updating and strengthening the benchbook. Evelyn stated that she is very confident that this benchbook will serve as a relevant tool for judges who make decisions related to protective orders for victims of domestic violence.

Judge Lu Sang stated a correction was needed on page 115 under the "How long must I stay away from my house" question because the answer is incorrect. It implies that a defendant needs to request within five days, and a hearing must be set within five days of his/her request; but the request itself does not need to be made within five days. Allie Bones also noted that it is not if the order is issued, that it is effective for a year; rather, it is if the order is issued it is effective one year from when it is served. Another member stated the sentence that says, "You must stay away from the property for the full one year period," needs to be deleted. Konnie stated that these changes will be noted and made prior to the Benchbooks being distributed.

Motion: To adopt the Domestic Violence Benchbook, with the suggested corrections

Vote: In favor-Unanimous (verbal vote)

A member stated that on page 135, the second entry for Autumn House's phone number should be: 480-835-5555, not 602-835-5555. She stated that some of the other numbers should be verified, including Vista Del Camino Social Services, which should read as: 480-312-2323 (instead of 480-994-2323). Another member also noted that on page 150, Southeastern Arizona Behavioral Health Services' phone number was incorrect. She will check the other numbers as well.

DV Criminal Benchbook Workgroup (Judge Mark Moran, Chair):

Judge Moran thanked all the Committee members and AOC staff for their expertise and input for the DV Criminal Benchbook.

Motion: To adopt the final draft as the new Domestic Violence Criminal Benchbook
Vote: In favor-Unanimous (verbal vote)

Judge O'Neil stated that both benchbooks will be delivered to the various judges by CD-rom and others by hard copy, if necessary, throughout the state.

DV Forms Workgroup (Bob James, Chair):

Bob James pointed out to the members the *General Petition* and *Guide Sheet for Orders of Protection and Injunctions* and the *FAQ's: General Petition for Protective Orders & Guide Sheet*. Effective February 1, 2004 the first two pages were mandated for use by all Arizona courts dealing with protective orders. The newest document is the *FAQ's: General Petition for Protective Orders & Guide Sheet* which is the product of the AOC staff after receiving feedback from the various courts throughout the state and addressing recurring questions. Bob stated that at this point in time, the workgroup is on hold, but he will be getting the group back together to decide the next strategic direction for the workgroup to continue working on protective order forms.

7. Legislative Report:

Todd Adkins, Legislative Specialist, and Xochitl Orozco, Legislative Intern, distributed a handout, and the Committee discussed the following proposed bills:

HB2001-Judges Pro Tem; Domestic Relations (Sponsor: Rep. Yarbrough, et al.):

Parties in a domestic relations case may elect that a judge *pro tem* be assigned. The parties shall agree and pay the *pro tem*'s salary upon approval of the court.

SB1160 Domestic Violence; Assessments (Sponsor: Sen. Mead, Bee, Brotherton et al.):

The court imposes an additional assessment, in addition to any other fine or restitution for persons convicted of domestic violence offenses, and the monies get deposited in a Domestic Violence Shelter Fund.

HB2317 Landlord Tenant; Domestic Violence (Sponsor: Rep. McClure):

This proposed bill prohibits rental agreements from including provisions that limit the tenant's right to summon police in response to domestic violence, and a tenant may terminate a rental contract when there is an incident of domestic violence.

SB1196 Protection Orders; Domestic Violence; Reports (Sponsor: Sen. Anderson):

This proposed bill proposes the publishing of a report by the Supreme Court each year that entails demographic statistics on: a) the number of orders of protection issued statewide from each court, b) the number of orders denied, c) the number of orders violated, d) details of the punishment for violations, e) the number of orders that are abandoned, and f) the number of persons killed while the order is in effect. The bill proposes that if the Supreme Court fails to publish this report, the

Court will not receive any monies from the criminal case processing and enforcement improvement fund.

HB2208 Domestic Violence; Diversion (Sponsor: Rep. Tully. Others: Rep. Allen, Gullett, Hubbs, Miranda):

This proposed bill strikes language that authorizes the court to divert a defendant found guilty of a domestic violence offense.

HB2242 Harassment Definition (Sponsor: Rep. Thompson):

“Harassment”, as defined in A.R.S. 12-1809, is changed to mean “conduct” (rather than “a series of events over any period of time”) that would lead a person to be alarmed, annoyed, or harassed.

HB2304 Sexual Assault of a Spouse (Sponsor: Rep. Jayne, Rep. Bradley et. al.):

This bill eliminates distinction between marital and non-marital sexual assault.

SB1206 Unemployment Benefits (Sponsor: Sen. Allen):

This bill proposes various statutory changes to unemployment benefits. It prohibits the Department of Economic Security from disqualifying an individual from receiving benefits if the individual is a victim of domestic violence and leaves employment due to a documented case of domestic violence offense.

SB1156 Retroactive Child Support (Sponsor: Sen. Brotherton, Sen. Giffords, et. al.):

This bill allows the court to order up to three years of retroactive child support if the parties lived apart before filing for divorce, legal separation, maintenance or child support.

SB1308 Domestic Relations; Child Custody (Sponsor: Sen. Bee, Allen, et al.):

This bill would prohibit the court from ordering joint counseling for parents with an order of protection or a history of domestic violence, unless the alleged victim of domestic violence consents to meet jointly. It prohibits the court from denying or limiting custody or parenting time to a parent solely because the parent acted, based on a reasonable belief, to report, determine or treat suspected sexual abuse. It also prohibits the court from granting legal custody or parenting time if the person is a registered sex offender or has been convicted of murdering the other parent, unless the court finds no risk to the child and states this in writing. This bill prohibits courts from taking into consideration any recommendations regarding custody from professional personnel and requires additional training for any entity that conducts an investigation or prepares a report concerning custodial agreement.

8. Call to the Public:

There were no comments from the public. An acknowledgement and applause was made to Juliana Koob, who was the driving force in putting together the Stop Violence against Women’s Legislative Day which took place during the morning prior to this meeting and was very successful.

9. Next Meeting:

Konnie announced the next meeting details: May 12, 2004, 10:00 AM – 2:00 PM, State Courts Building, Conference Room 119 A&B.

Konnie also reminded members to look at the workgroup lists that had been distributed, to make any necessary corrections, and to let her or Elizabeth Portillo know of any interest in joining any of the workgroups.

10. Adjournment:

Judge O'Neil adjourned the meeting at 2:20 pm.